

# Review of the Australian Energy Market Commission Establishment Regulations 2005-Issues Paper

December 2018

## Contents

Introduction.....	1
Regulations Content .....	1
Proposed Changes to these Regulations .....	2
Questions for Stakeholders' Consideration.....	2
Submissions.....	2
Next Steps.....	2

## Introduction

The *Australian Energy Market Commission Establishment Act 2004* establishes the Australian Energy Market Commission as the rule-maker for the national energy markets. The 2015 Review of Governance Arrangements for Australian Energy Markets determined that the governance arrangements, in particular, the various responsibilities allocated to the Australian Energy Market Commission, remain appropriate.

The Australian Energy Market Commission Establishment Regulations 2005 (Regulations) are made under the *Australian Energy Market Commission Establishment Act 2004*.

Under Part 3A of the *Subordinate Legislation Act 1978*, some regulations expire on 1 September of the year following the year in which the tenth anniversary of the day on which the regulations were made falls. There is provision for the expiry to be postponed for a period or periods not exceeding 2 years at a time and not exceeding 4 years in aggregate. The purpose of the expiry program is to ensure that regulations are regularly reviewed and remade as appropriate before expiry.

A review of these Regulations is now required.

The purpose of this review is to determine whether the Regulations remain appropriate and presents an opportunity to determine whether any changes are required. The Senior Committee of Officials is seeking stakeholders' feedback on the Regulations.

## Regulations Content

A brief description on the contents of the Regulations is provided below.

### 1–Short title

This section provides the short title of the Regulations.

### 3–Interpretation

This section specifies that any mention to the term Act in these Regulations refers to the *Australian Energy Market Commission Establishment Act 2004*.

#### 4–Confidentiality

Section 24(3) of the Act allows the AEMC to disclose information to a person or body prescribed by the Regulations. Section 24(4) allows the information to be used for any purpose connected with the performance of the person's, or body's, functions.

#### 5–Annual report

This section of the Regulations outlines the requirements of the Annual Report the AEMC must provide to the South Australian Minister for the relevant financial year. They include:

- The membership and organisation of the AEMC.
- The AEMC's activities.
- The AEMC's financial affairs.

#### Proposed Changes to these Regulations

The Energy Security Board was established in August 2017 to coordinate the implementation of the Blueprint for the Future by the Expert Panel which included Dr Alan Finkel AO as Chair.

Given the Energy Security Board's functions, the COAG Energy Council considers it is appropriate for the Board to be added to the list of bodies to whom the AEMC can provide confidential information. This would require an amendment to include the Energy Security Board as a body in section 4 of the Regulations regarding the authorised use and disclosure of confidential information.

#### Questions for Stakeholders' Consideration

1. Do stakeholders have any comments on the addition of the Energy Security Board to the list of bodies to whom the AEMC can provide confidential information?
2. Are there any other changes that stakeholders consider should be made to the Regulations at this time? If so, please provide reasoning to support the suggested change.

#### Submissions

Stakeholders are invited to provide written submissions by close of business (AEST) on **Thursday 14 February 2019**.

All stakeholder submissions will be published on the COAG Energy Council website unless stakeholders have clearly indicated that a submission should remain confidential, either in whole or in part.

Electronic submissions are preferred and can be sent to the Energy Council Secretariat at:

[energycouncil@environment.gov.au](mailto:energycouncil@environment.gov.au).

Those who wish to provide hard copies by post may do so by addressing their submissions to:

COAG Energy Council Secretariat  
GPO Box 787  
Canberra ACT 2601

#### Next Steps

An amended set of Regulations will be drafted and provided to stakeholders for consultation. Once this has occurred, officials will consider stakeholders' feedback and a finalised set of Regulations will be endorsed by the COAG Energy Council. The Regulations will then be made.